

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carlmais Johnson	Team: Team # 5	CCRB Case #: 200601208	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/28/2006 9:30 PM	Location of Incident: § 87(2)(b) 101 Precinct Stationhouse	Precinct: 101	18 Mo. SOL 7/28/2007	EO SOL 7/28/2007	
Date/Time CV Reported Sat, 01/28/2006 11:35 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Sun, 01/29/2006 1:38 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Nicholas Vandyke	18150	927819	101 PCT
3. SGT Carlos Fabara	01279	922317	101 PCT
4. POM Eric Konoski	26428	930497	101 PCT
5. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Matthew Handelsman	12644	932771	101 PCT
2. POM Alexander Lago	08166	932874	101 PCT
3. POM John Florio	29396	930165	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Carlos Fabara	Abuse: At § 87(2)(b) in Queens, Sergeant Carlos Fabara stopped § 87(2)(b)	
B.SGT Carlos Fabara	Abuse: At § 87(2)(b) in Queens, Sergeant Carlos Fabara searched § 87(2)(b)	
C.POM Eric Konoski	Discourtesy: At § 87(2)(b) in Queens, Officer Eric Konoski spoke obscenely and/or rudely to § 87(2)(b)	
D.POM Eric Konoski	Force: At § 87(2)(b) in Queens, Officer Eric Konoski used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
E.POM Eric Konoski	Discourtesy: At § 87(2)(b) in Queens, Officer Eric Konoski spoke obscenely and/or rudely to § 87(2)(b)	
F. Officers	Force: At § 87(2)(b) in Queens, officers used physical force against § 87(2)(b)	
G.POM Nicholas Vandyke	Force: At § 87(2)(b) in Queens, Officer Nicholas Vandyke used physical force against § 87(2)(b)	
H.POM Eric Konoski	Discourtesy: At § 87(2)(b) in Queens, Officer Eric Konoski spoke obscenely and/or rudely to an individual known as § 87(2)(b)	
I.POM Eric Konoski	Force: At § 87(2)(b) in Queens, Officer Eric Konoski used physical force against an individual known as § 87(2)(b)	
J. Officers	Force: At § 87(2)(b) in Queens, officers used physical force against § 87(2)(b)	
K. An officer	Abuse: At § 87(2)(b) in Queens, an officer threatened to arrest § 87(2)(b) and individuals.	
L. Officers	Discourtesy: At § 87(2)(b) in Queens, officers spoke obscenely and/or rudely to individuals.	
M. An officer	Discourtesy: At § 87(2)(b) in Queens, an officer spoke obscenely and/or rudely to § 87(2)(b)	
N.POM Eric Konoski	Discourtesy: At the 101st Precinct stationhouse, Officer Eric Konoski spoke obscenely and/or rudely to § 87(2)(b)	

## Synopsis

On January 28, 2006, at approximately 9:30 p.m., § 87(2)(b) and additional children were playing outside of § 87(2)(b) in Queens when Sergeant Carlos Fabara, Officer Matthew Handelsman and Officer Eric Konoski drove past the location. Sergeant Fabara exited the vehicle, stopped § 87(2)(b) (Allegation A) and searched him (Allegation B). § 87(2)(b) alleged that Officer Konoski spoke discourteously to her, saying, “Shut the fuck up and mind your fucking business” (Allegation C) and used physical force against her by punching her and throwing her over a fence (Allegation D). § 87(2)(b) claimed that Officer Konoski spoke discourteously to § 87(2)(b) telling him to “mind his fucking business” (Allegation E) and that officers punched § 87(2)(b) and kneed him in the legs, causing him to fall to the ground (Allegation F). The officers transmitted a request for assistance and numerous officers, including Officer Nicholas Vandyke, responded to the location. § 87(2)(b) alleged that Officer Nicholas Vandyke pushed § 87(2)(b) against a wall and placed her in handcuffs (Allegation G). § 87(2)(b) alleged that Officer Konoski told an individual known as § 87(2)(b) to “step the fuck back” (Allegation H) and when she refused to do so, pushed her (Allegation I). § 87(2)(b) alleged that an unidentified officer or officers punched him in the head and kicked him in the legs (Allegation J). § 87(2)(b) and § 87(2)(b) alleged that when civilians exited the building to find out what was going on, officers threatened to arrest them (Allegation K) and § 87(2)(b) alleged that unidentified officers told them to “get the fuck back” (Allegation L). § 87(2)(b) alleged that when she was placed inside of a police vehicle for transport to the 101<sup>st</sup> Precinct stationhouse, an unidentified officer said, “Will somebody get this bitch out of my face?” (Allegation M). § 87(2)(b) claimed that when she was inside of the 101<sup>st</sup> Precinct stationhouse, Officer Konoski repeatedly used profanity while speaking with her, telling her to “stop tapping your fucking leg”, “We don’t have to explain fucking shit to you” and “I’m tired of bitches like you” (Allegation N).

§ 87(2)(g)

## Summary of Complaint

§ 87(2)(b)

On January 28, 2006, at 11:35 p.m., § 87(2)(b) filed a complaint with the Internal Affairs Bureau indicating that her son, § 87(2)(b) and her daughter, § 87(2)(b) were arrested and beaten by police officers for no reason (encl. 3A-3B). She reported that § 87(2)(b) had a bruise on her left arm and that § 87(2)(b) had a bruise on his forehead. On January 29, 2007, § 87(2)(b) filed an identical complaint with the Civilian Complaint Review Board (encl. 4A-4C). On February 1, 2006, § 87(2)(b) provided a brief telephone statement regarding the incident (encl. 5A-5B). Although § 87(2)(b) was not present for a majority of the incident, she provided a summary based on information provided to her by her children. § 87(2)(b) later signed a sworn statement indicating that all of the information provided in connection with the case was truthful (encl. 5C).

On January 28, 2006, at approximately 9:30 p.m., § 87(2)(b) and § 87(2)(b) were outside of § 87(2)(b) in Queens with several other children. § 87(2)(b) alleged that three

officers approached § 87(2)(b) pushed him against a gate and searched him. When § 87(2)(b) informed the officers that § 87(2)(b) was only § 87(2)(b) years old, an officer punched her in the face and sides and arrested her. She noted that additional unidentified civilians that questioned the officers' actions were beaten and arrested.

When an unidentified relative informed § 87(2)(b) that police officers were beating § 87(2)(b) and § 87(2)(b) she ran outside. § 87(2)(b) stated that when she arrived outside, she observed officers holding § 87(2)(b) by his jacket and hitting him in his side. § 87(2)(b) stated that she asked an unidentified officer why officers were beating her children and was instead told to step back inside of the gate. When § 87(2)(b) nevertheless attempted to exit the gate, the unidentified officer informed her that she would be arrested if she came outside of the gate. § 87(2)(b) and § 87(2)(b) were taken to the 101<sup>st</sup> Precinct where officers "interrogated" § 87(2)(b) for three hours. § 87(2)(b) claimed that during this time, officers told § 87(2)(b) that they would "make a special project out of her because they couldn't keep her ass in jail" and that they would pick on her until they could make a case against her.

§ 87(2)(b)

On June 28, 2006, at 11:39 p.m., § 87(2)(b) called 911 and was transferred to the Internal Affairs Bureau Command Center (encl. 3A-3B). § 87(2)(b) a § 87(2)(b) year old male who is § 87(2)(b), informed the command center that he witnessed three children being assaulted and stated that the children had not done anything wrong. § 87(2)(b) was interviewed at the CCRB on March 25, 2006 and provided a detailed sworn statement (encl. 6A-6E).

On January 28, 2006, at approximately 9:30 p.m., § 87(2)(b) entered his home and briefly spoke with fifteen children that were playing outside. Approximately thirty seconds later, he heard loud screams of "Get off me!" He saw two police officers interacting with several of the children he had seen earlier. He identified these children as § 87(2)(b) identified via investigation as § 87(2)(b) and § 87(2)(b) and § 87(2)(b). § 87(2)(b) indicated that he has known these children for the majority of their lives. He did not indicate that he was related to any of these children. One officer remained inside of the car while two other officers frisked § 87(2)(b). He said that one officer, identified via investigation as Sergeant Carlos Fabara, patted and placed his hands inside of § 87(2)(b)'s pockets. He did not recall whether any items were removed. § 87(2)(b) who was standing next to § 87(2)(b) protested the officers' actions. One of the officers, he did not recall which one, grabbed her by the arms. This officer has been identified via investigation as Sergeant Fabara. § 87(2)(b) told Sergeant Fabara to get off of her and tried to walk away, but Sergeant Fabara threw her face-first against a fence. § 87(2)(b) approached Sergeant Fabara and asked him why he was leaning § 87(2)(b) over the gate. § 87(2)(b) alleged that Sergeant Fabara grabbed § 87(2)(b) and, when § 87(2)(b) held onto the gate, he punched § 87(2)(b) on the face three times. § 87(2)(b) remained over the gate. § 87(2)(b) did not indicate that he observed any injuries on either § 87(2)(b) or § 87(2)(b). Additional officers arrived at the scene but § 87(2)(b) was unable to describe them due to the hectic nature of the incident.

Several of the children's mothers came to the location and were later joined by several unidentified neighbors. He stated that the mothers that questioned the officers' actions were themselves beaten, though he did not specify how they were beaten. He alleged that a uniformed officer threw § 87(2)(b) to the ground and then put his knee in § 87(2)(b)'s chest. § 87(2)(b) later stated that the officer had his knee in § 87(2)(b)'s back. He believed that this officer may have also struck § 87(2)(b) in the chest. When § 87(2)(b)'s mother protested that § 87(2)(b) had asthma, an unidentified uniformed white male officer approached her and first placed her against a marked car, then against the ground and ultimately handcuffed her.

An unidentified uniformed officer, described as a forty year old white male, approximately 6'2" in height, stepped in front of him and told him and other people that were attempting to exit the gate, "If you come outside the gate, you will be arrested." Ultimately, § 87(2)(b) § 87(2)(b)'s mother, § 87(2)(b) § 87(2)(b)'s mother, § 87(2)(b) and possibly two or three other individuals were arrested and removed from the location. He denied that a large wagon or van arrived at the scene.

§ 87(2)(b) and other individuals went to the 101<sup>st</sup> Precinct stationhouse. When § 87(2)(b) was released, § 87(2)(b) spoke with her and her mother. § 87(2)(b) who observed a bruise on § 87(2)(b)'s face, he called for an ambulance to arrive at the location and also called the Civilian Complaint Review Board to file a complaint regarding the incident. The next day, he spoke with § 87(2)(b)'s mother who informed him that although § 87(2)(b) had been offered medical attention at the stationhouse, the mother declined.

### **Results of Investigation**

#### **Victim Statements**

§ 87(2)(b)  
§ 87(2)(b) a § 87(2)(b) year old § 87(2)(b) was interviewed at the CCRB on February 8, 2006 (encl. 7A-7E).

§ 87(2)(b)  
On January 28, 2006, at approximately 8:40 p.m., § 87(2)(b) was playing “Cops and Robbers” with her brother, § 87(2)(b) and several friends between the ages of eleven and eighteen. She identified her friends as § 87(2)(b) and § 87(2)(b) and § 87(2)(b). She noted that § 87(2)(b) has moved to Puerto Rico since the incident and § 87(2)(b) went to an unknown college. She explained that the kids were running around outside of the building and denied that they had been pretending to use guns. The children were leaning against the inside of a gate after playing their game when a black car with tinted windows stopped at the curb but no one exited the vehicle. The children stared at the vehicle and a white male seated in the front passenger seat stared back. This officer has been identified via investigation as Sergeant Carlos Fabara. After approximately one minute, Sergeant Fabara ran after § 87(2)(b) grabbed him and threw him against a fence. § 87(2)(b) asked Sergeant Fabara, “What are you doing? Get off of my brother” and held on to his jacket. Sergeant Fabara responded, “Shut the fuck up and mind your fucking business.” When § 87(2)(b) continued to protest, and informed the officer that § 87(2)(b) was only fourteen years old, she alleged that an officer, whom she described as a short white male officer with dirty blond hair and blue eyes and dressed in a gray sweater, punched her on the right side of her face with a closed fist. This officer has been identified as Officer Eric Konoski. Officer Konoski then turned her around and threw the top half of her body over the fence. As he placed her against the fence and handcuffed her, he repeated, “Why don’t you mind your business?” § 87(2)(b) told the officers, “She’s just a girl.” Sergeant Fabara told him, “Mind your fucking business” but § 87(2)(b) refused. An officer, described as a white male with dirty blond hair and blue eyes, punched § 87(2)(b) three times on both sides of his face. § 87(2)(b) did not indicate that § 87(2)(b) sustained any injuries as a result. This officer has been identified via investigation as Officer Matthew Handelsman. Five to six police cars came to the location.

An individual named § 87(2)(b) tentatively identified via investigation as § 87(2)(b) came outside to where the officers were and told the officers to get off of § 87(2)(b) and asked Officer Konoski what was going on so that she could inform § 87(2)(b) § 87(2)(b)'s parents. Officer Konoski told § 87(2)(b) “Step the fuck back” but § 87(2)(b) refused to do so. Officer Konoski pushed § 87(2)(b) and § 87(2)(b) pushed him back. Several people exited the building to ask the officer what was happening and officers at the scene began to argue with them. An officer, whom she could not describe, told the people, “I advise you to get the fuck back or all of you are going down in handcuffs. Officer Konoski threw her to the ground, causing her face to hit the concrete, and then placed his knee in her back. When she asked Officer Konoski to get off of her, he refused to do so. An unidentified officer threw § 87(2)(b) onto the ground so that he was on top of § 87(2)(b).

Additional police vehicles came to the scene and the responding officers began to fight with the civilians. § 87(2)(b) stated that the officers told her mother and other civilians, “Get the fuck back” and added that she saw an unidentified officer push her mother. When asked to specify what she saw, she clarified that as she was on the floor, she only saw feet and that people were falling to the ground. Officers picked up § 87(2)(b) and § 87(2)(b) off of the ground and walked them to a van where she was seated behind the driver, whom she described as a bald black uniformed male officer. When § 87(2)(b)

§ 87(2)(b) began to cry, the unidentified black male officer said, “Will somebody get this bitch out of my face?” and then “Get the fuck out of my face! Will somebody get this bitch out of my face?”

*101<sup>st</sup> Precinct stationhouse*

At the 101<sup>st</sup> Precinct stationhouse, § 87(2)(b) was brought into a room where Sergeant Fabara, Officer Konoski and Officer Handelsman were present. § 87(2)(b) repeatedly tapped her foot against the ground and Officer Konoski told her, “Stop tapping your fucking leg” but § 87(2)(b) refused to stop because she was mad. After an hour, § 87(2)(b) was allowed to leave but § 87(2)(b) was not. Officer Konoski told § 87(2)(b) “All you had to do was let me search your brother and none of this would have happened.” When § 87(2)(b) argued with him, Officer Konoski said, “You know what? We don’t have to explain fucking shit to you.” § 87(2)(b) stated that she and Officer Konoski argued about whether she was responsible for starting a riot and whether she would be released to her mother. Ultimately, Officer Konoski said that he would not release § 87(2)(b) until she apologized but § 87(2)(b) refused to give in. Officer Konoski told her, “I’m tired of bitches like you. Tell your homies not to carry guns. It would make our job easier.” After five minutes, § 87(2)(b) apologized to Officer Konoski but noted that she only said this for his benefit.

§ 87(2)(b)

§ 87(2)(b) a § 87(2)(b)-year old male § 87(2)(b) 53, provided a sworn statement to the CCRB on February 8, 2006 (encl. 8A-8C). § 87(2)(b) is the brother of § 87(2)(b) and the son of § 87(2)(b)

On January 28, 2006, at approximately 9:30 p.m., § 87(2)(b) and several other children—including § 87(2)(b) took a break from their game of tag. As the children stopped to catch their breath, a black car stopped outside of the complex and three officers exited the vehicle. An officer, described as a tall white male with a skinny build and “spiky” black hair, asked § 87(2)(b) for his name and then placed him against a gate. This officer has been identified via investigation as Sergeant Carlos Fabara. § 87(2)(b) alleged that Sergeant Fabara began to search him by patting his arms and legs and additionally alleged that Sergeant Fabara went inside of his left coat pocket. When § 87(2)(b) told him to stop, Sergeant Fabara said, “Shut the fuck up.” When § 87(2)(b) countered, “No, that’s my brother,” Officer Konoski, whom he described as a short white male with blond hair and a medium build, punched her once in the face. He did not indicate that she sustained any injuries as a result of the force. Officer Konoski placed § 87(2)(b) against a gate where she was handcuffed.

§ 87(2)(b) intervened and asked the officers, “What are you doing? She’s just a girl.” § 87(2)(b) described a third officer as a short, white male with blond hair and a full beard. This officer has been identified via investigation as Officer Matthew Handelsman. § 87(2)(b) alleged that Officer Handelsman punched § 87(2)(b) in the face and kneed him in the leg so that he would fall to the ground. Officer Handelsman then punched § 87(2)(b) in the face every time he moved, approximately three times. § 87(2)(b) did not indicate that he observed any injuries on § 87(2)(b) who was placed in handcuffs. § 87(2)(b) asked the officers why they were arresting § 87(2)(b) and was pushed against a wall and arrested. § 87(2)(b)’s mother asked the officers what had happened and she was arrested as well. § 87(2)(b) alleged that § 87(2)(b) asked the officers why they were arresting § 87(2)(b)’s mother when she had not done anything and officers jumped on him and began to punch him all over his body, causing him to fall to the ground. § 87(2)(b) did not indicate that he observed any injuries on § 87(2)(b). When § 87(2)(b) mother came outside to ask the officers about what was happening, she too was arrested.

As an unidentified officer placed § 87(2)(b) against the rear of a vehicle, his mother came outside. When § 87(2)(b) protested what the officers were doing to § 87(2)(b) officers punched him in the head and kicked him in the legs. Because he placed his hands over his face, he was unable to identify any of the officers that were involved in this attack. He could not say how many times he was struck. § 87(2)(b) was then placed inside of a marked patrol car for transport to the precinct stationhouse. When he looked outside the window of the patrol vehicle, he saw § 87(2)(b) standing outside, asking another officer where he was. He alleged that an officer pushed her and said, “Get this bitch out of my face.” § 87(2)(b) countered, “Bitch? I don’t know who you’re calling a bitch.”

At the 101<sup>st</sup> Precinct stationhouse, § 87(2)(b) and § 87(2)(b) were taken to a room upstairs. He alleged that an officer entered the room and said, referring to § 87(2)(b) “That’s the bitch right there” and began to speak about what § 87(2)(b) had done. § 87(2)(b) and Officer Handelsman began to argue with one another but § 87(2)(b) made no allegations that discourteous statements were made. After the argument, Officer Handelsman and Officer Konoski began to speak amongst themselves about the incident, using profanity, specifically the words “asshole” and “fuck” through he could not recall the exact statements used. The officers offered § 87(2)(b) water, soda and then ice cream but he refused to accept it. After being held in the room for approximately one hour, he was released to his parents. § 87(2)(b) stated that he sustained three bumps on his head. He was treated at a hospital where he was given pain reliever.

#### Victims Not Interviewed

§ 87(2)(b)  
§ 87(2)(b) alleged that a male named § 87(2)(b) identified via police documentation as § 87(2)(b) was the victim of discourtesy and physical force. The undersigned investigator mailed numerous please call letters to the address listed in § 87(2)(b)’s arrest report and on May 10, 2006, visited his home. When no one responded to the undersigned investigator’s knocks, a letter was left under the door. However, § 87(2)(b) never contacted the undersigned investigator to provide a statement in connection with this case.

§ 87(2)(b) and § 87(2)(b)  
On February 4, 2006, § 87(2)(b) called the undersigned investigator and stated that she did not wish to participate in the investigation because she did not want to relive the incident. She also stated that she did not wish for the undersigned to speak with her daughter, § 87(2)(b) who is § 87(2)(b) old. § 87(2)(b) affirmed that she was withdrawing the complaint of her own free will (encl. 29C).

#### Attempts to locate witness

§ 87(2)(b) **Unknown**  
§ 87(2)(b) indicated that an individual known as § 87(2)(b) was the victim of physical force. Arrest records, however, do not indicate that anyone with this name was arrested (encl. 25A-25B). Furthermore, no one else noted anyone by the name of § 87(2)(b) being present.

#### Police Officer Statements

##### ***Sergeant Carlos Fabara, of the 101<sup>st</sup> Precinct (Subject Officer)***

Sergeant Carlos Fabara, a § 87(2) year old Hispanic male, 5’0” in height and weighing 185 pounds with black hair, has been a member of the NYPD for eight years. Since the date of incident, Sergeant Fabara has been reassigned to the Police Academy. On January 29, 2006, at 12:08 a.m., Sergeant Fabara called the Internal Affairs Bureau command center in regards to a complaint filed one hour before (encl. 10). Sergeant Fabara stated that he, Officer Handelsman, Officer Konoski and Officer Florio responded to Beach 22<sup>nd</sup> Street and Cornaga Avenue to stop § 87(2)(b) whom they suspected of carrying a firearm. Sergeant Fabara stated that when the officers attempted to speak with § 87(2)(b) assaulted one of them. Sergeant Fabara added that when the officers attempted to arrest § 87(2)(b) they were assaulted by § 87(2)(b).

Sergeant Fabara was interviewed at the CCRB on June 9, 2006 (encl. 11A-11C). On January 28, 2006, Sergeant Fabara worked from 5:26 p.m. to 2:10 a.m. with Officer Konoski and Officer Handelsman as the Anti-Crime Supervisor, which targets violent street crime and burglaries. Sergeant Fabara was dressed in plainclothes and assigned to an unmarked vehicle. He believed that he was the front passenger seat. The undersigned investigator noted that Sergeant Fabara wore his black hair in a “spiky” fashion.

Sergeant Fabara explained that he, Officer Konoski and Officer Handelsman had been driving down Cornaga Avenue. As they drove past § 87(2)(b) the officers noticed a large group of twenty people standing in the walkway. They observed the group from the time that they turned onto Cornaga Avenue until they were in front of the pathway. Sergeant Fabara indicated that the group was blocking the path and was acting generally disorderly; he stated that he could not specify what they were doing because his attention was focused on § 87(2)(b) who was walking out of the complex towards the street.

He did not recall what § 87(2)(b) was wearing. Sergeant Fabara stated that as the officers stopped in front of the building, he could “see in his eyes” that § 87(2)(b) recognized that [they] were the police. § 87(2)(b) came to an immediate stop, opened his eyes and mouth and put his hand on his waist over his stomach. Prior to this movement, Sergeant Fabara did not see a bulge and was unable to discern one after the movement. § 87(2)(b) then made a u-turn and walked away. Sergeant Fabara then became suspicious that § 87(2)(b) had a firearm and explained that the combination factors, including the high level of crime in that area and the large group, led him to suspect that § 87(2)(b) was in possession of a firearm.

Sergeant Fabara exited the vehicle and approached § 87(2)(b) from behind. After identifying himself as a police officer, he placed his hands around § 87(2)(b)'s body in order to secure his hands and prevent him from reaching for the weapon. § 87(2)(b) who was startled, moved and squirmed in an attempt to get away and refused to produce his hands to allow them to check for the weapon. Because of § 87(2)(b)'s resistance, Sergeant Fabara was unable to definitively determine whether he was in possession of a weapon. Sergeant Fabara grabbed his hands to restrain § 87(2)(b) so that they could check for the weapon. Sergeant Fabara was unable to say whether Officer Handelsman or Officer Konoski made physical contact with § 87(2)(b).

§ 87(2)(b) approached and interfered in what the officers were doing by yelling, pushing the officers and separating the officers from § 87(2)(b). Sergeant Fabara stated that § 87(2)(b) who he described as “belligerent” and “rude” made many statements using profanity, but could not recall specifically what she said. Sergeant Fabara denied that he used profanity or that he told § 87(2)(b) to “shut the fuck up” or “mind [her] business.” The officers repeatedly identified themselves as officers to § 87(2)(b) and told her to step back so that they could conduct a police investigation but she refused to do so. Sergeant Fabara noted that force was also used to restrain § 87(2)(b). Sergeant Fabara stated that it was possible that he helped to restrain § 87(2)(b) at some point, and specifically noted that he may have pushed her away, assisted in handcuffing her or holding her after she was handcuffed, but had no specific recollection of this. He denied that he observed Officer Konoski or Officer Handelsman strike or punch § 87(2)(b). He also denied that he observed § 87(2)(b) being thrown against a fence. § 87(2)(b) was ultimately arrested. One of the officers, either Officer Handelsman or Officer Konoski, separated from the other officers to deal with § 87(2)(b).

Sergeant Fabara stated that once he secured § 87(2)(b)'s hands, § 87(2)(b) was placed in handcuffs. He did not recall whether he or another officer placed § 87(2)(b) in handcuffs. Sergeant Fabara did not know whether the frisk was completed before or after § 87(2)(b) was placed in handcuffs but was certain that it did occur as the officers' priority was to determine whether § 87(2)(b) was in possession of a firearm. He was uncertain whether § 87(2)(b) was searched.

A second male became involved in the incident. Sergeant Fabara was unable to describe the second male or any of the other individuals arrested. Sergeant Fabara stated that the incident snowballed into a large, disorderly melee with multiple people showing up from different directions and attacking the officers from all sides. He described the crowd as disorderly and non-compliant, and stated that the situation was “a borderline riot.” He stated that members of the crowd were pushing officers, failing to comply with directions to disperse and interfering with the officers' efforts to arrest individuals as well as blocking the path of police vehicles. Several units with an unspecified number of officers responded to the scene. He could not identify any of the responding officers and had no recollection that a male supervisor with gray hair was at the scene. Seven total people were arrested for varying offenses.

Sergeant Fabara had no specific recollection of § 87(2)(b) being placed inside of a vehicle for transport to the stationhouse. He said his only involvement with the arrested individuals at the stationhouse included supervising the officers as they conducted the arrest processing for § 87(2)(b) and § 87(2)(b) specifically reviewing the documentation. Sergeant Fabara also noted that he ensured that the officers secured the juveniles inside of a juvenile room. Sergeant Fabara affirmed that he did inspect the juvenile room while they were being held inside. He was unsure which officer was supervising them inside of the room. He denied that any officer used profanity while speaking with the children and had no



recollection that an officer insisted that they apologize to the officers. Sergeant Fabara denied that the juveniles appeared to be injured.

***Officer Eric Konoski, of the 101<sup>st</sup> Precinct (Subject Officer)***

Officer Eric Konoski, a § 87(2)(b) year old white male, 5'6" in height and weighing 185 pounds with brown hair and blue eyes, has been a member of the NYPD for four years. Officer Konoski had two entries in his memo book (encl. 17A-17B) indicating that at 9:30 p.m., one male was stopped at § 87(2)(b) and a UF 250 was prepared in regards to the stop. At 9:33 p.m., Officer Konoski noted that seven arrests had been made in regards to a disorderly group at the location.

Officer Eric Konoski was interviewed at the CCRB on March 29, 2007 (encl. 18A-18B). On January 28, 2006, Officer Konoski worked in plainclothes from 5:30 p.m. to 2:05 a.m. and was assigned to the Anti-Crime unit with Officer Handelsman and Sergeant Fabara in an unmarked vehicle.

On January 28, 2006, at approximately 9:30 p.m., Sergeant Fabara, Officer Handelsman and Officer Konoski were driving in the vehicle § 87(2)(b) when they observed a teenage male, identified via investigation as § 87(2)(b) standing in front of the gate of a housing complex. § 87(2)(b) looked at the officers and then placed his hand on his waistband as though he was holding, tapping or tugging an item that might be there. The officers believed that this item might be a firearm. § 87(2)(b) then turned to walk away. The officers stopped and exited their vehicle to approach § 87(2)(b). Officer Konoski did not recall which officer interacted with § 87(2)(b) or whether § 87(2)(b) was frisked.

Present at the location was a female, identified via investigation as § 87(2)(b) who Officer Konoski stated was aggressively pushing and shoving him. In response, Officer Konoski placed § 87(2)(b)'s hands behind her back so that he could handcuff her and indicated that this was the extent of the physical force he used against her. However, when they approach, a "very large" group, described as approximately thirty people, gathered and surrounded them. He had no recollection that any officer informed the group that they could be arrested. Officer Konoski described the group as "aggressive" and indicated that an unidentified member of the group attempted to punch an officer. Officer Konoski stated that he was preoccupied with the arrest that he had made and therefore did not see any officers use physical force against any individuals. He had no recollection that any civilians came to be on the ground during the incident and denied that he observed an officer punch an arrested individual.

The officers called for assistance and numerous unidentified officers, which Officer Konoski referred to as the entire 101<sup>st</sup> Precinct, the adjoining precinct and the local transit district, responded to the location. Officers made a total of seven arrests from the location in regards to the disorderly group.

At the 101<sup>st</sup> Precinct stationhouse, Officer Konoski stated that the only arrested individual he interacted with was the female he arrested. Officer Konoski affirmed that he briefly remained in the juvenile room with the juveniles as waiting to be picked up by their parents but did not recall which officer was in charge of supervising them. He also noted that several other officers entered and exited the room. Officer Konoski denied that he used profanity while speaking with the juveniles and had no recollection that the juveniles used discourteous language while speaking with the officers.

***Officer Nicholas Vandyke, of the 101<sup>st</sup> Precinct (Subject Officer)***

Officer Nicholas Vandyke, a brown-haired § 87(2)(b) year old white male officer, 5'8" in height and weighing 195 pounds, has been a member of the NYPD for five years. Officer Vandyke's memo book indicates that on January 28, 2006, at 9:05 p.m., there was a "10-85" [request for assistance] at § 87(2)(b) (encl. 12A-12D). At 9:33 p.m., one arrest had been made at the location and at 9:40 p.m., he had returned to the 101<sup>st</sup> Precinct stationhouse.

Officer Vandyke completed Arrest Report § 87(2)(b) regarding the arrest of § 87(2)(b) (encl. 13A-13C). Officer Vandyke detailed that he observed § 87(2)(b) grab another officer and his handcuffs in order to prevent him from placing another individual under arrest. He added that when he attempted to

place her in handcuffs, § 87(2)(b) resisted flailing her arms. § 87(2)(b) was charged with § 87(2)(b) Officer Vandyke indicated that he used physical force against § 87(2)(b) to overcome assault.

Officer Vandyke was interviewed at the CCRB on June 13, 2006 (encl. 14A-14C). On January 28, 2006, Officer Vandyke was assigned to patrol and worked in uniform with Officer Edward Smith.

On January 28, 2006, Officer Vandyke was in the 101<sup>st</sup> Precinct stationhouse lodging two arrested individuals from an unrelated incident when there was a request for assistance at § 87(2)(b) transmitted by the 101<sup>st</sup> Precinct's anti-crime team. Officer Vandyke and Officer Smith left the stationhouse and were the first officers to respond to the location. A male, whom he described as a olive-brown skinned male was laying on his stomach on the ground as the anti-crime team—which he identified as Sergeant Fabara, Officer Handelsman, Officer John Florio and Officer Konoski—attempted to place him in handcuffs. He stated that the male was offering minor resistance by flailing his arms to get out of the officers' grips and by trying to roll onto his back. The officers ultimately succeeded in placing the male in handcuffs. Officer Vandyke never learned why the male had been arrested and never learned that a female had been placed under arrest.

Also at the location was a crowd of approximately twenty people, which had surrounded the officers. Members of the crowd were yelling and an unidentified person shouted that the male “was only a kid.” Officer Vandyke claimed that members of the crowd were grabbing and punching the officers and specified that one civilian grabbed the waist of an unidentified officer while another civilian grabbed the arm of an unidentified officer in an attempt to pull him off of the male on the ground. Officer Vandyke and Officer Smith exited their vehicle and pulled people off of the anti-crime officers and told them to stay away. Officer Vandyke denied that he used profanity against any members of the crowd and further denied that he or any other officer told the crowd to “step the fuck back.” He noted, however, that he did hear officers telling the crowd to step back as additional civilians exited the complex to gather around. Several individuals, including § 87(2)(b) did not heed their commands and continued to approach the Anti-Crime officers. Officer Vandyke grabbed § 87(2)(b) by the shoulder and pushed her away, telling her to stay away. Nonetheless, § 87(2)(b) ran towards the anti-crime officers with her hands out and so Officer Vandyke grabbed her arm and placed it behind her back to prevent her from making physical contact with the officers. As he grabbed her, Officer Vandyke lost his footing and fell to the ground.

Almost immediately after the arrival of Officer Vandyke, additional units arrived at the location and the crowd engaged in various degrees of fighting with the responding officers, ranging from pushing to punching. Officer Vandyke indicated that the fighting lasted for approximately one minute and did not stop until all the members of the 101<sup>st</sup> Precinct were present at the scene.

At the 101<sup>st</sup> Precinct stationhouse, Officer Vandyke was present with § 87(2)(b) when she was brought before the front desk. The juveniles, which included the unidentified male, were taken upstairs to a room. Officer Vandyke stated that he remained with § 87(2)(b) completing her arrest processing and therefore never had contact with any juvenile that was arrested.

***Officer John Florio, of the 101<sup>st</sup> Precinct (Witness Officer)***

In his statement to the CCRB, Officer Vandyke identified Officer John Florio, a § 87(2)(b) year old white male, as a member of the anti-crime team and stated that he was present at the time of incident. Officer Florio, who has been a member of the NYPD for four years, appeared at the CCRB on June 16, 2006 and provided his memo book which indicated that on January 28, 2006, he worked from 8:00 a.m. to 4:00 p.m. and was not working at the time of incident (encl. 15A-15B, 16A-16B).

**Police Officers Not Interviewed**

***Officer Matthew Handelsman, of the 101<sup>st</sup> Precinct (Subject Officer)***

Police documentation and statements indicate that Officer Matthew Handelsman was the third officer assigned to the 101<sup>st</sup> Precinct anti-crime team and was present for the alleged incident. Officer Handelsman is a white male, 6'1" in height and weighing 185 pounds with brown hair and blue eyes. However, Officer

Handelsman has since resigned from the NYPD on January 7, 2007. Officer Handelsman's memo book contained a minimal entry regarding the incident indicating that a request for assistance was transmitted at 9:33 p.m. and that seven people were arrested in regards to the incident (encl. 19A-19B).

Officer Handelsman completed a Stop Question and Frisk Report, given serial number § 87(2)(b) regarding the stop of § 87(2)(b) (encl. 22A-22B). Officer Handelsman indicated that after a one minute period of observation, § 87(2)(b) had been stopped for suspected criminal possession of a weapon and noted the following circumstances: his actions were indicative of "casing" a location, his factions were indicative of acting as a lookout, he engaged in furtive movements and that he was wearing clothing/disguises commonly used in the commission of a crime. In the section regarding physical force, Officer Handelsman indicated that he had his hands on § 87(2)(b) and also that he handcuffed § 87(2)(b). He noted that § 87(2)(b) was arrested for § 87(2)(a) Fam. Ct. Act § and a Juvenile Report was completed in regards. Officer Handelsman checked that § 87(2)(b) was frisked because of his furtive movements, because he engaged in actions indicative of a violent crime, he refused to comply with his verbal commands and because a violent crime was suspected. Officer Handelsman indicated that he searched § 87(2)(b) because he was under arrest. In the section entitled Additional Circumstances/Factors, Officer Handelsman indicated that § 87(2)(b) gave evasive, false or inconsistent answers to questions posed, changed his direction after observing the officer, that the area has a high incidence of the reported offense, that the time of day corresponded with reports of criminal activity and that there was an ongoing robbery pattern.

Officer Handelsman completed Juvenile Reports regarding the arrest of § 87(2)(b) and § 87(2)(b) (encl. 21A-21B). § 87(2)(a) Fam. Ct. Act § 381.3

Arrest Report § 87(2)(b) regarding the arrest of § 87(2)(b) (encl. 20A-20B) indicates that he was arrested for § 87(2)(a) 160.50

Officer Handelsman wrote the following narrative: § 87(2)(b) "§ 87(2)(a) 160.50

#### Police Documents

Officer Lago completed Arrest Report § 87(2)(b) regarding the arrest of § 87(2)(b) (encl. 23A-23C). Officer Lago indicated that when he arrived at the location in response to a 10-85 request for assistance, he observed § 87(2)(b) interfering in the arrest of another individual. Officer Lago indicated that when he escorted § 87(2)(b) away, § 87(2)(b) began to "swing her fists and kick her feet" at him until she was handcuffed. § 87(2)(b) was charged with § 87(2)(a) 160.50. Officer Lago indicated that force was used against § 87(2)(b) to overcome assault.

A Stop, Question and Frisk Log indicates that the only Stop, Question and Frisk report completed in connection with this incident was that which Officer Handelsman completed for the stop of § 87(2)(b) (encl. 26A-26B).

Sprint communications record S13374 indicates that 9:15 p.m., one unit transmitted a request for assistance at § 87(2)(b) (encl. 24A-24B). Shortly thereafter, numerous units indicated that they had responded to the location. Two minutes later, a supervisor directs that no further units respond to the location and indicates that there is a disorderly group at the location.

#### Criminal Conviction History

Because § 87(2)(b) and § 87(2)(b) are juveniles, no documentation regarding the outcome of charges stemming from this incident or their criminal conviction histories are available.

§ 87(2)(b) §§ 86(1)(3)&(4) § 87(2)(c)

#### Civil Court Documents

On § 87(2)(b), § 87(2)(b) filed Notice of Claim with the City of New York that briefly reiterated the allegations outlined in the sworn statements of § 87(2)(b) and § 87(2)(b) and requested an unspecified amount of money in damages (encl. 28A-28L). The New York City Law Department indicated that as of May 17, 2007, the civil case was still pending and that no 50H hearings had taken place or were scheduled (encl. 29I).

#### CCRB Histories

None of the complainants or victims in this § 87(2)(b) or § 87(2)(b) have filed prior complaints with the Civilian Complaint Review Board (encl. 2G-2L).

Sergeant Carlos Fabara has had four substantiated CCRB allegations that resulted in the imposition of discipline during his eight year tenure with the NYPD (encl. 2A-2D), § 87(4-b) § 87(2)(g)

§ 87(2)(b) Sergeant Fabara was substantiated in connection with CCRB 200508693 for an improper entry and refusal to provide his name and shield number. Sergeant Fabara received instructions in regards to this case. In CCRB case number 200511684, Sergeant Fabara was substantiated for the stop, question and frisk of an individual. The CCRB recommended charges in regard to this incident. The NYPD disposition for this case is still pending. Sergeant Fabara was substantiated for an allegation of an improper stop and question and an improper frisks in CCRB 200512992 and received Command Discipline A for each allegation. In CCRB case number 200606723, Sergeant Fabara was substantiated for refusing to provide his name and shield number to an individual as well for the improper frisk of this person. The CCRB recommended charges in regard to this case and the NYPD disposition is still pending.

Officer Eric Konoski has had two substantiated CCRB allegations in his four years at the CCRB that resulted in the imposition of discipline (encl. 2E). Officer Konoski was substantiated for an improper stop and frisk with relation to CCRB 20051299; he received Command Discipline A.

Officer Nicholas Vandyke, who has been a member of the NYPD for five years, has never had a substantiated CCRB allegation (encl. 2F).

### **Conclusions and Recommendations**

#### Officer Identification and pleading of allegations

§ 87(2)(b) described a white male officer with black “spiky” hair and a skinny build and indicated that the officer was wearing a black jacket. § 87(2)(b) described this officer as a tall and skinny white male with “spiky” black hair and indicated that he was wearing a dark-colored jacket. § 87(2)(b) claimed that this officer stopped and searched § 87(2)(b) (Allegation A and Allegation B). Sergeant Carlos Fabara affirmed that he was the officer that stopped § 87(2)(b) and attempted to frisk him. § 87(2)(g)

§ 87(2)(b) alleged that an officer punched her in the face, threw her over a gate and handcuffed her (Allegation D). She also alleged that this officer spoke discourteously to her, saying, “Shut the fuck up and mind your fucking business” (Allegation C) as well as § 87(2)(b) (Allegation E) and an individual named § 87(2)(b) (Allegation H). § 87(2)(b) alleged that this officer pushed an individual named § 87(2)(b) (Allegation I). § 87(2)(b) also this officer that spoke discourteously to her at the 101<sup>st</sup> Precinct stationhouse (Allegation N). She described this officer as a short white male with dirty blond

and light-colored eyes, dressed in a gray sweater and hat. § 87(2)(b) described this officer similarly. § 87(2)(b) and § 87(2)(b) identified a third male officer and described him as a white male with dirty blond hair and blue eyes. § 87(2)(b) added that the third officer had a full beard. § 87(2)(b) alleged that the third officer punched § 87(2)(b). Officer Eric Konoski is a white male, 5'6" in height and weighing 185 pounds with blue eyes while Officer John Handelsman is a white male officer 6'1" in height and weighing 185 pounds with dirty blond hair. Officer Konoski indicated that he was clean-shaven at the time of incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that Officer Konoski punched § 87(2)(b) in the head and § 87(2)(b) added that Officer Handelsman kned § 87(2)(b) in the leg so that he would fall to the ground. He further alleged that once § 87(2)(b) was lying on the ground punched him in the face three times (Allegation F). § 87(2)(b) however, did not provide a statement in connection with this investigation § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that an officer, whom he could not described, pushed § 87(2)(b) against a wall before placing her in handcuffs (Allegation G). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that an officer or officers punched him in the head and kicked him in the legs (Allegation J). However, he explained that as he was lying on the ground and used his hands to shield his head, he was unable to describe any subjects of the alleged misconduct. All of the interviewed officers denied performing these actions. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) alleged that a uniformed black male officer that responded to the location called her a "bitch" (Allegation M). Statements from the officers at the scene as well as Sprint reports indicate that a large number of officers arrived at the location in response to the officers' radio request for assistance. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) and § 87(2)(b) claimed that an officer, whom they could not describe, told a crowd that they would be arrested if they did not move back (Allegation K). § 87(2)(b) added that several responding officers, whom she could not describe, told the crowd, "Get the fuck back" (Allegation L). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

The individual identified by § 87(2)(b) as § 87(2)(b) could not be located for an interview during this investigation. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

#### Assessment of Evidence

All parties agree that Sergeant Fabara stopped § 87(2)(b) (Allegation A). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) stated that after he was placed against the gate, Sergeant Fabara frisked him by patting his clothing and then searched him by placing his hand inside his left coat pocket (Allegation B). § 87(2)(b) made no statements regarding this alleged frisk and search. Sergeant Fabara indicated that he was never able to complete his frisk of § 87(2)(b) due to § 87(2)(b)'s interference.

§ 87(2)(b) made multiple allegations of discourteous language § 87(2)(g)  
§ 87(2)(b) alleged that while at § 87(2)(b)  
Officer Konoski told her, “Shut the fuck up and mind your fucking business” (Allegation C). However, § 87(2)(b) who was in the vicinity, did not reiterate this allegation and the officers present denied that any officer used profanity while speaking with her. § 87(2)(b) also alleged that when she was inside of a police van, an unidentified officer said, “Will somebody get this bitch out of my face?” (Allegation M).

§ 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b) claimed that as she was being held in the 101<sup>st</sup> Precinct stationhouse, Officer Konoski made three statements to her that contained profanity (Allegation N). § 87(2)(g)

§ 87(2)(g)  
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§ 87(2)(g)  
§ 87(2)(g)

§ 87(2)(b) alleged that after § 87(2)(b) his mother, came to outside, officers used extensive physical force against him, punching him in the head and kicking him in the legs (Allegation J). § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

§ 87(2)(b) alleged that an officer she could not describe told her that she would be arrested if she came outside of a gate to approach the officers (Allegation K). § 87(2)(b) corroborated § 87(2)(b) § 87(2)(b) allegation with his more detailed account in which an unidentified officer said, “If you come outside the gate, you will be arrested.” § 87(2)(b) alleged that one of the numerous responding officers whom she could not describe told a crowd of neighbors that had gathered at the location, “Get the fuck back” (Allegation L). § 87(2)(g)

§ 87(2)(g)  
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§ 87(2)(g)  
§ 87(2)(g)

**Allegation A) Abuse of Authority: At § 87(2)(b) in Queens, Sergeant Carlos Fabara stopped § 87(2)(b)**

§ 87(2)(b) alleged that he was stopped by being placed against a gate. Sergeant Fabara stated that he stopped § 87(2)(b) because § 87(2)(b) changed direction when he saw them drive past and placed his hand on his waistband. Sergeant Fabara's explanation for the stop was confirmed by Officer Konoski's statement as well as paperwork completed by Officer Handelsman. Barry Kamins' *New York Search and Seizure* indicates that an officer is permitted to stop and question an individual "when he reasonably suspects that such person is committing, has committed or is about to commit" a crime and indicated that the officer "must indicate specific and articulable facts that reasonably prompted the stop" (encl. 1A-1B).

§ 87(2)(g)

**Allegation B) Abuse of Authority: At § 87(2)(b) in Queens, Sergeant Carlos Fabara searched § 87(2)(b)**

§ 87(2)(b) alleged that Sergeant Fabara patted his arms and legs and then placed his hands inside of his left coat pocket. Sergeant Fabara, who stopped § 87(2)(b) indicated that he was never able to frisk of § 87(2)(b) because he and then § 87(2)(b) obstructed their attempts to secure his hands. § 87(2)(b)

§ 87(2)(g)

**Allegation C) Discourtesy: At § 87(2)(b) in Queens, Officer Eric Konoski spoke obscenely and/or rudely to § 87(2)(b)**

**Allegation M) Discourtesy: At § 87(2)(b) in Queens, an officer spoke obscenely and/or rudely to § 87(2)(b)**

**Allegation N) Discourtesy: At the 101<sup>st</sup> Precinct stationhouse, Officer Eric Konoski spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that when she intervened on behalf of her brother while outside of § 87(2)(b) Officer Konoski told her, "Shut the fuck up and mind your fucking business." § 87(2)(b) claimed that when she was placed inside of a van for transport to the 101<sup>st</sup> Precinct stationhouse, the driver of the vehicle said, "Will somebody get this bitch out of my face?" and then told her, "Get the fuck back." § 87(2)(b) additionally alleged that when she was inside of the 101<sup>st</sup> Precinct stationhouse, Officer Konoski spoke discourteously to her, telling her, "Stop tapping your fucking leg," "We don't have to explain fucking shit to you," and "I'm tired of bitches like you." § 87(2)(b) indicated that he heard an officer make this statement to § 87(2)(b) but indicated that it occurred when she was still outside of the van. Although § 87(2)(b) indicated that § 87(2)(b) was also present when Officer Konoski told her, "Stop tapping your fucking leg," § 87(2)(b) did not corroborate her allegations. § 87(2)(b)'s allegations were also disputed by the officers involved in the incident. § 87(2)(g)

**Allegation D) Force: At § 87(2)(b) in Queens, Officer Eric Konoski used physical force against § 87(2)(b)**

When § 87(2)(b) observed an officer stop § 87(2)(b) § 87(2)(b) stated that she verbally protested his actions and admitted that she grabbed on to Officer Konoski's jacket. § 87(2)(b) alleged that Officer Konoski used a closed fist to punch her on the right side of her face and then threw her over a fence, where he placed her in handcuffs. Officer Konoski stated that his physical interaction with § 87(2)(b) was limited to placing her in handcuffs. Sergeant Fabara affirmed that physical force was used against § 87(2)(b) but indicated that it was in order to prevent her from interfering with their stop of § 87(2)(b). The officers denied that they punched § 87(2)(b). Patrol Guide Procedure 203-11 governing the use of force directs officers to use "only that amount of force necessary to overcome resistance" (encl. 1C-1D). § 87(2)(g)

**Allegation E) Discourtesy: At § 87(2)(b) in Queens, Officer Eric Konoski spoke obscenely and/or rudely to § 87(2)(b)**

**Allegation F) Force: At § 87(2)(b) in Queens, officers used physical force against**

§ 87(2)(b)

§ 87(2)(b) alleged that when § 87(2)(b) protested the way Officer Konoski was treating her, Officer Konoski told him to “mind his fucking business” though § 87(2)(b) did not corroborate this allegation. § 87(2)(b) and § 87(2)(b) alleged that when § 87(2)(b) attempted to intervene on her behalf, Officer Konoski punched § 87(2)(b) three times on both sides of his head. § 87(2)(b) added that Officer Handelsman kneed him in the leg so that he would fall to the ground and punched him in the face every time he moved, approximately three times. § 87(2)(b) never responded to numerous attempts to contact him. § 87(2)(g)

**Allegation G) Force: At § 87(2)(b) in Queens, Officer Nicholas Vandyke used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that when § 87(2)(b) asked the officers why they were arresting § 87(2)(b) an unidentified officer pushed her against a wall and then placed her in handcuffs. Officer Vandyke confirmed that he used minor physical force to place § 87(2)(b) in handcuffs after § 87(2)(b) attempted to assault another police officer. § 87(2)(b) the mother of § 87(2)(b) declined to provide a statement in connection with the case and indicated that she did not wish § 87(2)(b) who is § 87(2)(b) years old, to provide a statement either. § 87(2)(g)

**Allegation H) Discourtesy: At § 87(2)(b) in Queens, Officer Eric Konoski spoke obscenely and or rudely to an individual known as § 87(2)(b)**

**Allegation I) Force: At § 87(2)(b) in Queens, Officer Eric Konoski used physical force against an individual known as § 87(2)(b)**

After several individuals were arrested, a crowd began to gather. § 87(2)(b) alleged that Officer Konoski told an individual known as § 87(2)(b) to “Step the fuck back.” She further alleged that when § 87(2)(b) refused to do so, Officer Konoski pushed her. § 87(2)(g)

**Allegation J) Force: At § 87(2)(b) in Queens, officers used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that when he protested the officers’ use of physical force against § 87(2)(b) unidentified officers punched him in the head and kicked him in the legs. However, because of his position on the ground, he was unable to identify which officers punched and kicked him and the officers that had physical control of § 87(2)(b) denied that they performed these actions. § 87(2)(g)

**Allegation K) Abuse of Authority: At § 87(2)(b) in Queens, an officer threatened to arrest § 87(2)(b) and individuals.**

**Allegation L) Discourtesy: At § 87(2)(b) in Queens, officers spoke obscenely and rudely to individuals.**



During the incident, numerous civilians exited the building to learn what was going on. § 87(2)(b) alleged that an officer told the crowd, “I advise you to get the fuck back or all of you are going down in handcuffs.” She further alleged that several responding officers said, “Get the fuck back.” § 87(2)(b) claimed that an officer said, “If you come outside the gate, you will be arrested.” § 87(2)(b) indicated that an officer threatened to arrest anyone that came closer to the officers. In *Police Department v. White* (Disciplinary case number 78667/03), Assistant Deputy Commissioner Claudia Daniels-DePeyster determined that an officer’s use of “an expletive in his verbal command”—specifically “Get the fuck back”—was not misconduct “when addressing the crowd to gain cooperation in lieu of using physical force” (encl. 1E-1H). In *Police Department v. Grandstaff* (Disciplinary case number 79085/03), Daniels DePeyster likewise found that a threat of arrest was permissible when made for the purpose of calming a potentially aggressive situation (encl. 1I-1L). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: